

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

ILEANA RIVERA, <i>et al.</i>,	:	
Plaintiffs	:	CIVIL ACTION NO. 3:17-1126
v.	:	(MANNION, D.J.)
U.S. DEPT. OF HOUSING AND	:	(MEHALCHICK, M.J.)
URBAN DEVELOPMENT,	:	
Defendant	:	

MEMORANDUM

Pending before the court is the report and recommendation of Magistrate Judge Mehalchick, (Doc. 22), which recommends that the court grant defendant HUD's motion to dismiss, (Doc. 15), since the complaint filed by *pro se* plaintiff Ileana Rivera, on behalf of herself and on behalf of her daughter, Andrea Ramirez, fails to invoke the court's subject matter jurisdiction, pursuant to Fed.R.Civ.P. 12(b)(1), and fails to state a cognizable claim pursuant to [Fed.R.Civ.P. 12\(b\)\(6\)](#).¹ Based on the foregoing, Judge Mehalchick's report will be **ADOPTED IN ITS ENTIRETY** and, defendant HUD's motion to dismiss will be **GRANTED**. The plaintiffs' complaint, (Doc. 1), will be **DISMISSED WITHOUT PREJUDICE**. The plaintiffs will be **GRANTED** leave to file an amended complaint.

¹As Judge Mehalchick notes, Rivera cannot represent Ramirez in this case. See Murray on behalf of Purnell v. City of Philadelphia, 901 F.3d 169, 170 (3d Cir. 2018) ("Although an individual may represent herself or himself *pro se*, a non-attorney may not represent other parties in federal court.").

To date no objections to Judge Mehalchick's report have been filed by any party and the time to file objections has passed.

Where no timely objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." [Fed. R. Civ. P. 72\(b\)](#), advisory committee notes; see also [Univac Dental Co. v. Dentsply Int'l, Inc.](#), 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010). District judges should give some "level of review to dispositive legal issues raised by the report." [Henderson v. Carlson](#), 812 F.2d 874, 878 (3d Cir. 1987). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. [28 U.S.C. §636\(b\)\(1\)](#); [Local Rule 72.3](#).

The court has reviewed each of the bases presented by Judge Mehalchick regarding her above stated recommendations as to the plaintiffs' complaint. Because the court agrees with the sound reasoning that led Judge Mehalchick to the conclusions in her report and finds no clear error on the face of the record, the court will adopt the report in its entirety.

As such, the court will dismiss the plaintiffs' complaint without prejudice. See [Alston v. Parker](#), 363 F.3d 229, 236 (3d Cir. 2004) ("Dismissal without leave to amend is justified only on the grounds of bad faith, undue delay,

prejudice, or futility.”).

The plaintiffs will be directed to file an amended complaint in accordance with the directives stated by Judge Mehalchick in her report. An appropriate order shall issue.

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

Date: July 8, 2019

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